

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application

Ola Olofsson

Group Art Unit: 3725

Application No.: 10/761,401

Examiner: S. Self

Filed: January 22, 2004

Confirmation No.: 3311

For: PROCESS FOR THE MANUFACTURING OF JOINING PROFILES

**DECLARATION UNDER 37 CFR §1.132 OF FREDRIK SCHLYTER**

Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

1. I, Fredrik Schlyter, am currently an employee of the Assignee of the above-identified patent application.

2. I am familiar with the art to which this invention pertains, *e.g.*, joints for building panels, and thus am one skilled in the art to which this invention pertains.

3. I am aware of the invention claimed in the above-identified application, including the Office Action mailed January 11, 2008, and the Examiner's statement therein that:

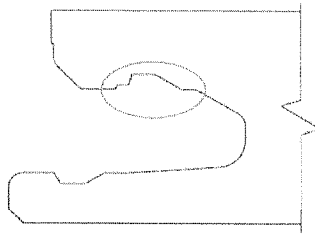
Examiner notes that either the tongue or groove, having a broached portion having angles sharper than possible by milling, does not positively define an end resultant product, i.e. surface comprised of a plurality of boards having joint connection between the boards that is patentably distinct from the prior art of record. Further examiner notes the process by which the end result product (surface comprised of plurality of boards having a joint connection between the boards) is made is not germane to the patentability of the end resultant product;

4. I have been made aware that there is authority that the method by which an article is made does have an affect on the patentability of the product, e.g., a "product by process" limitation, which the examiner acknowledges in the sentence of the office action immediately preceding the quoted section (Office Action of January 11, 2008, page 3, third full paragraph).

5. In the instant case, this "product by process" limitation does positively define the structure of the product, *i.e.*, by reference to an angle in the tongue or groove which cannot be made by milling.

6. In my experience, industrial and commercial manufacturing of the groove and tongue edges (hereinafter collectively "Joint Edges") can generally be accomplished by milling; however, at least some joint configurations, require Joint Edge configurations having angles where milling alone cannot be used during commercial manufacturing.

7. An example of such positioning of angles occurs within the groove illustrated below:



In commercial or industrial manufacturing of joints of this type, relying solely on rotating tools is impossible. Specifically, milling requires the rotation of a cutting tool, rotating at a high speed with respect to the work. In order to mill a groove of this type, the rotating tool must have a shaft small enough to pass into the groove. Unfortunately, such shaft diameters are insufficient to support the rotating tool at speeds necessary for commercial manufacturing, as such narrow shafts will break or otherwise fail.

8. The present invention utilizes a combination of conventional commercial milling in combination with broaching to form the Joint Edge shapes impossible to achieve by commercial milling.

9. Thus, this is a case where the process limitation produces a product which cannot be obtained by commercial milling alone.

10. Commercially milled products could not be made to have the angles achievable only by broaching.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made in punished by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 05/12/2008

  
Fredrik Schlyter